

Application No. 09/650,801
Amendment "A" dated June 28, 2004
Reply to Office Action mailed March 20, 2004

REMARKS

The first Office Action, mailed March 20, 2004, considered claims 1-33. Claims 1-33 were rejected under 35 U.S.C. § 102(b) as being unpatentable by Vallone (U.S. Patent No. 6,642,939)¹. By this paper, the specification has been amended to correct a minor typographical error on page 4 and to insert a missing serial number of a co-pending application on page 32. Of the pending claims, only claims 11 and 22 have been amended by this paper. Accordingly, claims 1-33 remain pending for reconsideration, of which claims 1, 11, 16, 22 and 26 are the independent claims at issue.

The Examiner has asserted that the pending claims are rejected in view of Vallone. Applicants respectfully submit, however, that Vallone fails to disclose or suggest or even contemplate the methods that are recited in the pending claims. In fact, Vallone does not even address the problem identified in the present application regarding the need to allow a user to record multiple programs, even though the program times may conflict. (See p. 4 of Applicants' Specification). To the contrary, Vallone is directed to a novel user interface system configured to present programming to a viewer in a more intuitive manner than the program grids utilized by the prior art. (Col. 1, ln. 36 – Col. 2, ln. 3).

Contrary to the teachings and claim elements of the present application, Vallone does not allow a user to select multiple programs for recording when their broadcast times are in conflict. Instead, as shown in Fig. 25, a user must delete a previously selected program from a recording status before a newly selected program can be recorded. The corresponding disclosure provided in Vallone regarding Figure 25, which is found in Col. 19, ll. 11-16, merely states the following:

Referring to FIG. 25, any program schedule conflicts are displayed 2501 to the viewer immediately whenever a conflict arises. Such conflicts can be caused, for example, by the viewer selecting two programs to be saved that are shown at the same time or have overlapping times when only one tuner is available.

Accordingly, while Vallone indicates that a potential for a conflict could arise, Vallone prevents such a conflict by requiring the cancellation of a first program before a second program

¹ Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

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that could conflict with the first program can be selected for recording. (see the text provided in Figure 25). In this regard, Vallone fails to disclose any methods for recording, let alone selecting, multiple programs that are in conflict.

Contrary to Vallone, however, the present application does allow multiple programs that are in conflict to be selected for recording. In fact, this feature is required by the embodiments recited in the claims. For example, in claim 1, first and second programs that at least partially coincide in time are selected to be recorded. Thereafter, upon determining that a conflict indeed exists between the two programs, the system stores the information specifying that the programs have been selected for recording. It should be appreciated that this is very different than merely identifying a potential conflict for the user, so that the user can resolve the conflict, as is shown in Figure 25 of Vallone.

One reason it is useful to store the information regarding the selection of multiple programs for recording, even when in conflict, is so that the conflicts can subsequently be resolved by the system. As described in Applicants' specification, however, the manner in which the conflicts are resolved depends on the types of programs that are selected. For example, in Figure 11 a second program selected for recording is an episode, which as automatically determined by the system, will be broadcast in another showing at another time that is not in conflict with the first program. The system then automatically records the first program at a first time and the episode at a different time during the rebroadcast of the episode.

Claim 16 is directed to another embodiment wherein one of the selected programs is a repeating program to be recorded on a repetitive basis and the second program is scheduled to coincide with at least one of the showings of the first program. As recited, this conflict is resolved by recording the repeating program for all of its scheduled showings except for the one that coincides with the second program, during which time the second program is recorded.

Claim 22 is directed to an embodiment in which the broadcast time of a selected program dynamically changes (e.g., the actual start time or end time) from the scheduled broadcast time (e.g., the scheduled start and/or end times), raising the possibility a program will not be able to be recorded. Accordingly, as recited, both of the selected programs are only recorded if the dynamic change to the broadcast time permits it as *determined by the monitoring of the broadcast data*. The corresponding depending claims address various permutations of this base embodiment.

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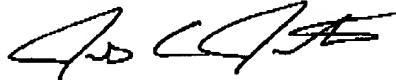
The last independent claim, claim 26, is directed to an embodiment in which a conflict between two selected programs is known and *stored*, and wherein that conflict is subsequently resolved (e.g., by a subsequent user input (claim 27), by the addition of a new tuner (claim 28), by the change in a broadcast (claims 29-30), or by subsequently identifying a subsequent broadcast time for one of the programs (claim 31)). In each of these derivative embodiments of claim 26, however, it is again noted that the conflict between the two selected programs is received and stored by the system. In other words, the claimed system does not prevent a user from selecting two programs that are in conflict, as does Vallone, but instead requires it, in combination with the other recited claim elements.

For at least the foregoing reasons, Applicants respectfully submit that each of the pending independent claims are neither anticipated by nor made obvious by Vallone and are, therefore, in condition for prompt allowance. The corresponding dependent claims should also be found allowable over Vallone for at least the same reasons inasmuch as they each incorporate the limitations from the independent claims from which they depend.²

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 28 day of June 2004.

Respectfully submitted,



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² Because the dependent claims are distinguished from the art of record for at least the same reasons as the independent claims, as mentioned above, it is not necessary to specifically address each of the individual rejections to the dependent claims. Nevertheless, this should not be construed as acquiescing to the purported teachings of Vallone regarding the dependent claims, inasmuch as Applicants do not. Accordingly, Applicants reserve the right to further challenge the purported teachings of Vallone and to further distinguish Vallone from the pending claims at any appropriate time in the future.